



**State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES**

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
(603) 271-3503 FAX (603) 271-2982



Town of Hanover
Town Office
41 South Main Street
P.O. Box 483
Hanover, NH 03755

**ADMINISTRATIVE ORDER
BY CONSENT
No. WD 03-014**

Re: Hanover Wastewater Treatment Facility
NPDES Permit No. NH0100099

A. INTRODUCTION

This Administrative Order by Consent is issued by the Department of Environmental Services, Water Division to, and with the consent of, the Town of Hanover, pursuant to RSA 485-A:22. This Administrative Order by Consent is effective upon signature by both parties.

B. PARTIES

1. The Department of Environmental Services, Water Division ("DES"), is a duly constituted administrative agency of the State of New Hampshire, with its principal office at 6 Hazen Drive, Concord, NH 03301-0095.
2. The Town of Hanover ("Hanover") is a duly constituted municipality of the State of New Hampshire having a mailing address of P.O. Box 483, Hanover, NH 03755.

C. STATEMENTS OF FACTS AND LAW

1. Pursuant to RSA 485-A:8 and RSA 485-A:13 and related sections, DES regulates the discharge of pollutants to surface waters and has developed a permit system. As part of this program, the Commissioner of DES has adopted Env-Ws 401 - 405 relating to Surface Water Discharge Permits and has adopted Env-Ws 1700 establishing Surface Water Quality Regulations for the state's surface waters.
2. The Town of Hanover owns and operates a wastewater treatment facility located at Pine Knoll Drive, Hanover, NH (hereinafter "the Facility").
3. Operation of the Facility is permitted under the terms of federal National Pollutant Discharge Elimination System ("NPDES") permit number NH0100099 issued by the United States Environmental Protection Agency ("EPA") to Hanover. The permit became effective on October 14, 1999 and became effective as a State discharge permit on October 29, 1999 under RSA 485-A:13, I (a) and New Hampshire Code of Administrative Rules Env-Ws 401 and 402 Hereinafter the federal/state permit is referred to collectively as the "NPDES Permit".
4. The NPDES Permit authorizes Hanover to discharge treated wastewater from the Facility to the Connecticut River, subject to specified effluent limitations, monitoring requirements, and other conditions.

5. Pursuant to the Laws of 1967, 311:1, the Connecticut River and its tributaries are classified as Class B waters.
6. Pursuant to RSA 485-A:8, II, there shall be no disposal of waste into Class B waters except those that have received adequate treatment to prevent objectionable physical characteristics and an *Escherichia coli* ("*E. coli*") daily count no greater than 406 counts/100 ml. Disposal of waste shall not be harmful to aquatic life or to the maintenance of aquatic life in said receiving waters. Further, Class B waters shall be acceptable for swimming, fishing and other recreational purposes.
7. NPDES Permit condition Part I.A.1. requires that *E. coli* concentrations in the Facility's effluent not exceed 406 counts per 100 milliliters as a daily maximum count.
8. NPDES Permit condition Part I.A.1. requires that *E. coli* concentrations in the Facility's effluent not exceed 126 counts per 100 milliliters as a monthly geometric mean count.
9. For the monitoring period of October 1999 through January 2003, the Facility reported 69 exceedances of the *E. coli* daily maximum count and 9 exceedances of the *E. coli* monthly geometric mean count. Attachment 1 identifies these 78 violations.
10. RSA 485-A:12, I, authorizes DES to enforce classification of state waters and prohibits the discharge of wastewater in a manner that will lower the quality of the receiving water below certain standards.
11. RSA 485-A:12, II, requires the person or persons responsible for the discharge of pollutants that lowers the quality of waters below the assigned classification to abate such pollution within a time frame set by DES.

D. DETERMINATION OF VIOLATIONS

1. Hanover violated the NPDES Permit by discharging wastewater from the Facility that exceeds the specified limits for *E. coli* on at least 78 occasions between October 1999 and January 2003.

E. ORDER

Based on the above findings and determinations, DES hereby orders Hanover, and Hanover agrees, to undertake and complete the following actions in accordance with the time schedules specified:

1. **By August 31, 2003**, submit preliminary design plans for the disinfection system upgrade to DES for review.
2. **By October 31, 2003**, submit to DES the completed design plans and specifications for the disinfection system upgrade.
3. **By December 1, 2003**, advertise for construction bids for the disinfection system upgrade as approved by DES.

4. **By January 31, 2004**, issue Notice to Proceed to contractor for construction of the disinfection system upgrade as approved by DES.
5. **By July 31, 2004**, complete construction of the disinfection system upgrade as approved by DES. The system shall also be fully operational by this date.
6. Send all correspondence and all data, reports and other submissions required by this Order to:

Ms. Sharon L. Ducharme P.E.
DES-WD/WWEB
P.O. Box 95
Concord, NH 03302-0095

copy to: Ms. Joy Hilton
USEPA Region 1/Water Technical Unit
1 Congress St., Suite 1100
Boston, MA 02114-2023

F. STIPULATED PENALTIES

1. In accordance with Env-C 603.08(a), Hanover agrees to pay \$2,000 per calendar month or portion thereof that compliance is not achieved after the deadline specified in the Order for each provision of the Order not complied with. Hanover must also provide the information as described in Attachment 2, at least 30 days prior to any deadline, if the Facility anticipates exceeding the deadline.
2. In accordance with Env-C 603.08(c), Hanover agrees to pay \$500 per violation for each *E. coli* violation that occurs between April 2003 and July 31, 2004 or until the completion of the long term disinfection system upgrade, whichever occurs later. If payment is not postmarked by the 15th day of the month following the violation(s), the stipulated penalty will increase to \$1,000.00 per violation. If the payment is not postmarked by the last day of the month following the violation(s), the stipulated penalty will increase to \$2,000.00 per violation.
3. If stipulated penalties become due, payment shall be submitted to DES with the monthly Discharge Monitoring Report ("DMR"). Payment shall be in the form of a certified check made payable to the "New Hampshire Water Pollution Control Association" ("NHWPCA"). Penalty proceeds will be used to purchase equipment for loan to wastewater treatment facilities for compliance assistance and trouble-shooting, and for developing and improving training programs for wastewater treatment plant operators. The DMR and any payment shall be mailed to NHDES Water Division, Wastewater Engineering Bureau, Attn: Sharon L. Ducharme, P.E., P.O. Box 95, Concord, NH 03302-0095.
4. Based on the Town's cooperation and efforts to comply with this Order, at this time DES is not seeking penalties for the violations documented in Attachment 1. Pursuant to Env-C 603.08 based on these 78 violations of the *E. coli* water quality standard, the maximum potential fine is \$156,000. Contingent upon Hanover complying with this Order to achieve compliance with the Town's NPDES Permit, DES agrees to waive the penalties associated with the violations detailed in Attachment 1. Nothing in this agreement shall be construed to limit DES's ability to take further enforcement against Hanover for continued non-compliance, including without limitation, referral to the New Hampshire Department of Justice.

2. Hanover shall continuously and diligently pursue implementation of the actions required in Section E above. Hanover shall immediately notify DES of any delays in meeting the deadlines specified in Section E. Reasonable changes to the implementation schedule shall not be unreasonably withheld by DES. If Hanover misses a deadline due to circumstances beyond Hanover's control, penalties will not become due relative to that specific deadline. Failure to secure funding for the required actions or failure of a consultant to meet deadlines shall not be construed as beyond Hanover's control.

G. CONSENT AND WAIVER OF APPEAL

1. By execution of this Administrative Order by Consent, Hanover agrees that this Order shall apply to and be binding upon Hanover, its officers, directors, successors and assigns, and agrees that this Order may be entered and enforced by a court of competent jurisdiction.

2. By execution of this Administrative Order by Consent, Hanover waives any right to appeal this Administrative Order by Consent provided by statute, rule or common law, including without limitation the right to appeal to the Water Council, and waives any right to object to the entry and enforcement of this order by a court of competent jurisdiction.

TOWN OF HANOVER

COPY
By: [Signature]
Chairman, Board of Selectmen
Duly Authorized

May 15, 2003
Date

NH DEPARTMENT OF ENVIRONMENTAL SERVICES

COPY
[Signature]
Harry I. Stewart, P.E., Director
Water Division

COPY
May 15, 2003
Date

COPY
[Signature]
Robert Monaco, Acting Commissioner

5-20-03
Date

cc: Julia Griffin, Hanover, Town Manager
Selectmen, Hanover
Ed Rushbrook, Underwood Engineers, Inc.
Jennifer Patterson, NHDOJ/AGO
Mark Harbaugh, NHDES Legal Unit
Joy Hilton, USEPA
Sharon Ducharme, P.E., NHDES WWEB

Attachment 1

Permit Limits	<i>E. coli</i> Daily Maximum Violation(s) and Result(s) 406 colonies/100 ml		<i>E. coli</i> Monthly Geometric Mean Violation(s) and Result(s) 126 colonies/100 ml
Month and Year	Sample Date	<i>E.coli</i> Concentration (counts/100ml)	(counts/100mls)
October 1999 thru June 2000		NVR	NVR
July 2000	5 th	800	NVR
	6 th	800	
	11 th	800	
August 2000	3 rd	1600	NVR
	4 th	530	
September 2000 to March 2001		NVR	NVR
April 2001	25 th	544	NVR
May 2001	9 th	1600	169
	10 th	630	
	14 th	1600	
	16 th	600	
	31 st	540	
June 2001		NVR	NVR
July 2001	2 nd	540	132
	3 rd	1160	
	17 th	1600	
	30 th	760	
August 2001	7 th	800	272
	8 th	800	
	9 th	800	
	10 th	800	
	14 th	800	
	15 th	800	
	16 th	800	
	21 st	730	
	22 nd	800	
	28 th	800	
September 2001 to October 2001		NVR	NVR
November 2001	15 th	800	NVR
	19 th	550	
December 2001	18 th	800	NVR
	20 th	800	
January 2002	7 th	800	283
	10 th	24,667	
	11 th	1,438	
	16 th	770	
	17 th	610	

Permit Limits	<i>E. coli</i> Daily Maximum Violation(s) and Result(s) 406 colonies/100 ml		<i>E. coli</i> Monthly Geometric Mean Violation(s) and Result(s) 126 colonies/100 ml
Month and Year	Sample Date	<i>E.coli</i> Concentration (counts/100ml)	(counts/100mls)
February 2002	19 th	480	171.6
March 2002		NVR	NVR
April 2002	10 th 17 th	540 1,600	NVR
May 2002	13 th 14 th 15 th	840 1,600 515	NVR
June 2002	17 th 19 th 20 th 26 th	1,600 1,560 1,600 450	190.2
July 2002		NVR	NVR
August 2002	14 th 21 st 28 th	1,000 720 605	149.1
September 2002	5 th 11 th 17 th 18 th 19 th 24 th 25 th	1,740 570 420 585 735 565 1,600	278.2
October 2002	2 nd 3 rd 7 th 8 th 9 th 14 th 16 th 17 th 22 nd 23 rd 24 th 28 th 29 th 30 th	1,600 1,600 1,600 1,600 1,600 1,600 1,600 80,000 8,000 8,000 6,800 8,000 7,300 8,000	1,591.5
November 2002		NVR	NVR
December 2002	4 th	800	NVR
January 2003		NVR	NVR

TNTC – Too Numerous To Count
NVR- No Violation Reported

Attachment 2
DES WWEB COMPLIANCE SECTION POLICY ON REQUESTING AN EXTENSION
OF TIME ON ENFORCEMENT ACTIONS

To request an extension of time for modifying compliance dates in this Administrative Order by Consent, the following information must be supplied in a cover letter and submitted as soon as the permittee is aware of the need, but no less than 30 days prior to the deadline proposed to be changed. Attachments may be used (and are encouraged) but they should not be used to replace the information requested in the cover letter. The attachments should supplement this information.

1. Explain the requested changes to the existing Order. Be very specific. For example, if you are going to propose a change in a date in the Order, submit the proposed date in the cover letter.
2. Discuss who developed the original dates and how these dates were selected. Were other affected parties, such as suppliers and contractors consulted? If so, list them and summarize their comments. If not, explain why not.
3. List any other extensions requested. Explain why these extensions were needed. Were the extensions granted? Explain the effect of these other extension requests on the present request.
4. If the dates requested were used in the original Order, explain in detail why these requested changes could not have been anticipated and addressed when the dates were proposed.
5. If violations of the NPDES permit or NH Water Quality Standards are anticipated during the requested extension period, explain interim measures that will be implemented to minimize or eliminate the potential violations.
6. Explain the potential effects on human health or the environment these changes may cause. For example, if the request was to postpone the installation of dechlorination equipment, describe the effects on the aquatic life. If a deleterious effect on human health and the environment is anticipated, explain interim measures that will be used to minimize the effect.
7. Explain what could cause the need for any other extension requests in the future and what is presently being done to avoid them.
8. Submit this request to DES to Sharon Ducharme's attention, with a copy to Joy Hilton at USEPA at the following addresses:

Sharon L. Ducharme, P.E.
NH Dept. of Envr. Services
Compliance Section, WWEB
6 Hazen Drive
Concord, NH 03301

Joy Hilton
USEPA Region 1
Water Technical Unit
P.O. Box 8127
Boston, MA 02114-8127